

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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JOHN WAYNE BROOKS,

Case No. 24-cv-3804 (LMP/SGE)

Petitioner,

v.

**ORDER ADOPTING  
REPORT AND RECOMMENDATION**

JERAD RARDIN, Warden,

Respondent.

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This matter is before the Court on the November 5, 2024 Report and Recommendation (“R&R”) of United States Magistrate Judge Shannon G. Elkins, which recommends dismissing Petitioner John Wayne Brooks’s petition for a writ of habeas corpus. *See* ECF No. 7. Neither party objected to the R&R, *see* Fed. R. Civ. P. 72(b)(2), so the Court reviews the R&R for clear error, *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam).

On October 3, 2024, the Clerk of Court sent a letter to Mr. Brooks directing him to pay the filing fee for this action or apply for *in forma pauperis* (“IFP”) status within fifteen days. *See* ECF No. 2. The letter advised Mr. Brooks that if he did not pay the filing fee or apply for IFP status, his case could be summarily dismissed without prejudice. *Id.*

To date, Mr. Brooks has not paid the filing fee, applied for IFP status, or otherwise responded to the Clerk of Court’s October 3 letter. Accordingly, the R&R recommends dismissing this action without prejudice for failure to prosecute under Fed. R. Civ. P. 41(b). *See* ECF No. 7 at 1. That conclusion is not clearly erroneous, so the Court adopts it in full.

*See MacDermott v. Fed. Bureau of Prisons*, No. 23-cv-3914 (ECT/ECW), 2024 WL 713964, at \*1 (D. Minn. Feb. 21, 2024) (dismissing action under Fed. R. Civ. P. 41(b) when prisoner-litigant failed to pay filing fee or apply for IFP status).

**ORDER**

Based upon all the files, records, and proceedings in this matter, **IT IS HEREBY ORDERED THAT:**

1. The Report and Recommendation (ECF No. 7) is **ADOPTED IN FULL**.
2. The Petition (ECF No. 1) is **DISMISSED WITHOUT PREJUDICE**.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: December 3, 2024

*s/Laura M. Provinzino*  
Laura M. Provinzino  
United States District Judge